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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,352	11/21/2003	John R. Wall	3257-031853	3304

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EXAMINER

MILLS, DANIEL J

ART UNIT PAPER NUMBER

3679

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/719,352

Applicant(s)

WALL

Examiner

Daniel J. Mills

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-16 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 10/20/2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

Claims 17-20 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected method, there being no allowable generic or linking claim.

### ***Drawings***

The drawings are objected to because the crosshatching is incorrect; the metal wires referred to in the specification are not shown. Applicant was correct to remove crosshatching from the outside edges of the buckles, however, Figure 7 shows a cutaway section of the rail and it must be crosshatched. The original cross hatching correctly indicated plastic, but failed to show the embedded metal wires. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification Objections***

Objections to the specification are withdrawn in view of the amendment dated 10/20/2005.

### ***Claim Rejections - 35 USC § 112***

Claim rejections under section 112 are withdrawn in view of the amendment dated 10/20/2005.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Safe-Fence as shown on the April 8, 2001 archive of [www.safefence.com](http://www.safefence.com) accessible using the internet archive website "wayback machine" at:

<http://web.archive.org/web/20010311153850/www.safefence.com>. Please note also, the marked up attachment included on pages 9-11 of the instant Office action in view of Johnson (US 5,661,878).

As to claim 1, Safe-Fence discloses a fence comprising a rail consisting of at least two metal wires ensheathed in a plastic web (the webbing used for the fence is disclosed as having stainless steel wires interwoven), a slotted connector (1) having a face plate (encompasses the entirety of 1) with two slots (A and B) and a middle portion (3) separating the two slots, the connector having a front side (facing away from reader) and a rear side (facing toward reader) and also having a post attachment end (2), a free end of the rail (4) being disposed in the slotted connector so that the rail runs from the front side of the connector through a first slot (A) nearest the post attachment end, round the middle portion (3), and then back through the second slot (B), and a post (5) to which the slotted connector is attached using a fastener (5).

Safe-fence fails to disclose that the slotted connector has a face plate with two slots formed within the face in a planar surface thereof, the connector including a substantially planar middle portion separating the two slots.

Johnson teaches a planar strap buckle which has a face plate with two slots formed within the face in a planar surface thereof, the connector including a substantially planar middle portion separating the two slots for the purpose of providing a buckle which can be manufactured more simply, more economically, and with good reliability. Accordingly, It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the arrangement of Safe-fence to include a

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planar connector as taught by Johnson for the purpose of providing a buckle which can be manufactured more simply, more economically, and with good reliability.

As to claim 2, Safe-Fence in view of Johnson discloses a fence wherein the end connector comprises return edges extending along opposing sides of the rigid member, the return edges extending perpendicularly from the faceplate (the hooks 6 shown on either side of component 2 on the R-50 corner tensioner, curve perpendicularly away from the plane of the faceplate).

As to claim 3, Safe-Fence in view of Johnson discloses a fence wherein the end connector is attached to the post using a fastener (see figure 1) which permits the connector to pivot about the fastener.

As to claim 4, Safe-Fence in view of Johnson discloses a fence wherein the faceplate further comprises a through hole (see 2) adapted to receive the fastener.

As to claim 5, Safe-Fence in view of Johnson discloses a fence wherein the fastener is a lag bolt.

As to claim 6, Safe-Fence in view of Johnson discloses a fence wherein the faceplate (encompasses the entirety of 1 includes a bend between the first slot and the post attachment end (2) (this is shown in figure 1 in the photo of the R-50 corner tensioner).

As to claim 7, Safe-Fence in view of Johnson discloses a fence wherein the connector is made of steel.

As to claim 8, Safe-Fence in view of Johnson discloses a fence wherein the rail is rigid yet manually deformable (this is the case when the rail is assembled with the connector and is pulled taut).

As to claim 9, Safe-Fence in view of Johnson discloses a fence wherein the post is a wooden post with a circular cross section (see the archive website at [http://web.archive.org/web/20010311150951/www.safefence.com/Install\\_End\\_Posts.htm](http://web.archive.org/web/20010311150951/www.safefence.com/Install_End_Posts.htm)).

As to claim 10, Safe-Fence in view of Johnson discloses a fence further including a slotted joining connector (7) having a face plate with a first slot (8), a second slot (9), and a third slot (10), the joining connector having a front side (into the paper) and a rear side (out of the paper).

As to claim 11, Safe-Fence in view of Johnson discloses a fence further comprising a second rail (shown in figure 3) consisting of at least two metal wires ensheathed in a plastic web, with ends of the first (11) and second (12) rails being in abutting relationship to each other (see figure 3).

As to claim 12, Safe-Fence in view of Johnson discloses a fence wherein the first slot (8) and the second slot (9) are adapted to receive the abutting end of the first rail (11) and the second slot (9) and the third slot (10) are adapted to receive the abutting end of the second rail (12).

Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Safe-Fence as shown on the April 8, 2001 archive of [www.safefence.com](http://www.safefence.com) and Johnson

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(US 5,661,878) as applied to claims 1-12, above, and further in view of Robbins (US RE32,707).

As to claim 13, Safe-Fence in view of Johnson discloses a connector (1) for composite metal and plastic fence rails, comprising, a face plate (encompasses the entirety of 1) with at least two parallel slots (A and B) formed within the face plate and defined within a planar surface thereof and a substantially planar middle portion (3) separating the two slots, the face plate having a front side facing away from reader) and a rear side (facing toward reader), the slots sized and shaped to receive a full width and thickness of at least one fence rail therein. Safe-Fence in view of Johnson fails to disclose show a rail consisting of metal wire ensheathed in a plastic web that is constructed such that it is rigid yet manually deformable.

Robins teaches the use of a rail consisting of metal wire ensheathed in a plastic web that is constructed such that it is rigid yet manually deformable for the purpose of obtaining both the visibility of wood fencing, and the low cost and maintenance of wire fencing. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the arrangement of Safe-fence in view of Johnson to use of a rail consisting of metal wire ensheathed in a plastic web that is constructed such that it is rigid yet manually deformable for the purpose of obtaining both the visibility of wood fencing, and the low cost and maintenance of wire fencing.

As to claim 14, Safe-Fence in view of Johnson and Robbins discloses a connector (7) including three slots (8, 9, 10) each being parallel to and spaced from its adjacent slot, with the middle slot being slightly wider than the two end slots.



As to claim 15, Safe-Fence in view of Johnson and Robbins discloses a connector wherein the face plate further comprises return edges extending along opposing ends of the face plate, the return edges extending perpendicularly from the face plate faceplate (the hooks 6 shown on either side of component 2 on the R-50 corner tensioner, curve perpendicularly away from the plane of the faceplate).

As to claim 16, Safe-Fence in view of Johnson and Robbins discloses a connector (1) wherein the faceplate further comprises a through hole (see 2) adapted to receive a fastener for securing the connector to a fence post.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment to add limitations requiring planar connectors and rigid railing necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Mills whose telephone number is 571-272-8115. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
DJM  
1/8/2006



DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Tensioners - Safe-Fence Hardware - Microsoft Internet Explorer provided by USF10

File Edit View Favorites Tools Help

**'AFFORDABLE  
'ATTRACTIVE  
'EFFECTIVE  
'SAFE**

**HOME**

**SAFE-FENCE  
POLYTAPE**

**SAFE-FENCE  
HARDWARE**

- **Safe-Tee Sleeves**
- **Tensioners**
- **Insulators**
- **Connectors**
- **Ground Rod Kit**
- **Miscellaneous**

**HORSE POWER  
FENCE CHARGERS**

**INSTALLATION  
DIRECTIONS**

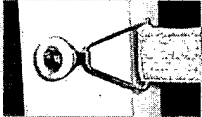
**ELECTRIC FENCE  
THEORY**

**ABOUT  
J.L. WILLIAMS CO.**

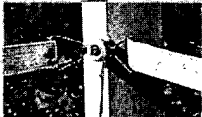
## SAFE-FENCE Hardware Tensioners

*SAFE-FENCE Tensioners are the cornerstone of the SAFE-FENCE Hardware System. Of solid stainless steel construction, SAFE-FENCE Tensioners hold your fence firmly, yet in instances of violent impact they are designed to protect your horse.*

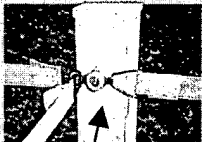
**R-40 End Tensioner**  
Begin and end each strand with a R-40 at gate posts or buildings. Holds webbing tight and allows easy retightening.



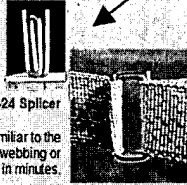
**R-50 Corner Tensioner**  
Use the R-50 at all corners or any up and down hill direction change greater than 10 degrees. Also used at tape gates.



**R-55 Tee Tensioner**  
The R-55 has three tensioners. Use for cross fence junctions.



**R-24 Splicer**  
A stainless steel spring buckle similar to the tensioner. Used to join rolls of webbing or repair torn webbing in minutes.



**FREE INFORMATION:**  
E-mail us your name and address (or call toll free 1-800-843-3702) for FREE product samples and information, a Fence Planning Guide and the SAFE-FENCE System Reference Manual.

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Send us (or call with) a detailed description of your fence needs. Our experienced sales staff will provide a cost estimate at no obligation or up-front expense. Discover the affordability of SAFE-FENCE!

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
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16 items remaining Opening page http://web.archive.org/web/200105111020319/www.safe-fence.com/Hardware\_Tensioners.htm

Figure 1

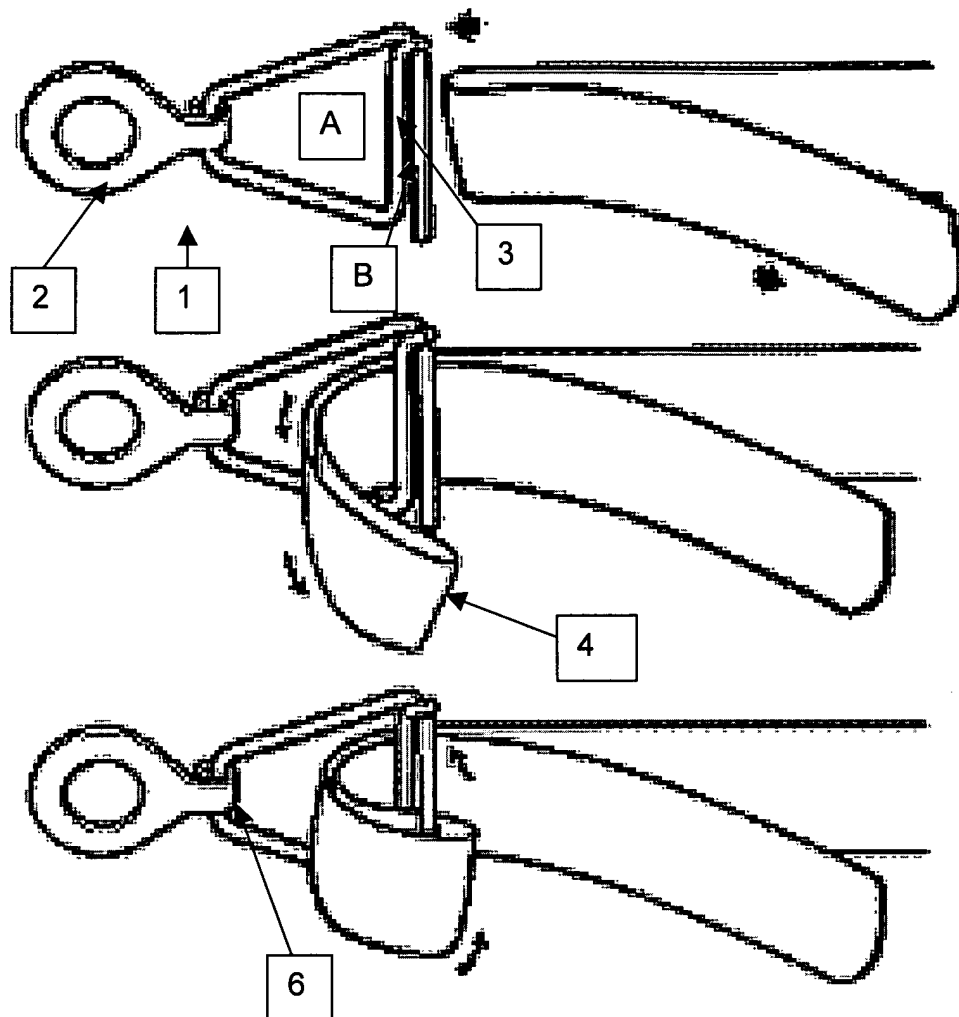


Figure 2

